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HUMAN RIGHTS COMMITTEE
Seventy-first session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 40 OF THE COVENANT

Concluding observations of the Human Rights Committee

Uzbekistan

1. The Committee considered the initial report of Uzbekistan (CCPR/C/UZB/99/1) at its 1908th, 1910th and 1911th meetings, held on 26 and 27 March 2001, and adopted the following concluding observations at its 1922nd meeting, held on 4 April 2001.

A. Introduction

2. The Committee has examined the detailed and comprehensive initial report of Uzbekistan, covering events since the country's independence in 1991. It appreciates the frankness with which the report acknowledged problems and shortcomings encountered in the implementation of Covenant rights, and the State party's willingness to provide further information and statistics in writing. It regrets, however, the delay in the submission of the initial report and the fact that the report does not give a full picture of the human rights situation in practice.

B. Positive aspects

3. The Committee commends the State party, which is in a period of transition from totalitarian rule, compounded by instability in the region, for undertaking the process of bringing its legislation into harmony with its international obligations. It notes the ratification of a number of human rights treaties and the enactment of many laws in order to bring domestic legislation into line with the requirements of the Covenant.

4. The Committee expresses its satisfaction at the fact that an agreement has been reached between the State party and the International Committee of the Red Cross, by which the Red Cross is authorized to visit Uzbek prisons and to examine conditions in detention facilities.

5. The Committee welcomes the information provided by the State party in relation to its language policy, whereby education at all levels is offered in 10 languages, including the languages of the minority groups.

C. Principal subjects of concern and recommendations

6. The Committee deplores the State party's refusal to reveal the number of persons who have been executed or condemned to death, and the grounds for their conviction, both during the time covered by the report and during the time elapsed since then.

> The State party should provide such information as soon as possible, to enable the Committee to monitor the State party's compliance with article 6 of the Covenant.

7. Taking into account article 7 of the Covenant, the Committee is gravely concerned about consistent allegations of widespread torture, inhuman treatment and abuse of power by law enforcement officials. The Committee is also concerned about the limited number of investigations into allegations of torture.

> The State party should ensure that all allegations of torture are properly investigated and the persons responsible prosecuted. Complaints about torture and other forms of abuse by officials should be investigated by independent bodies. Provision should be made for medical examination of detained persons, particularly persons held in pre-trial detention, in order to ensure that no physical abuse of detainees occurs. The State party should institute an independent system of monitoring and checking all places of detention and penal institutions on a regular basis, with the purpose of preventing torture and other abuses of power by law enforcement officials. Free access to lawyers, doctors and family members should be guaranteed immediately after the arrest and during all stages of detention.

8. The Committee appreciates that the recently established Constitutional Court delivered a judgement holding that statements made under duress would not be admissible in evidence. The Committee also takes note that it was assured by the State party's delegation that any allegation of torture by a defendant will lead to an immediate discontinuation of the case and a separate examination of the truthfulness of the allegation. However, the Committee remains concerned at allegations of the continued use of torture and other forms of inhuman treatment by law enforcement officials, particularly for the purpose of extorting confessions, in violation of article 7 and article 14, paragraph 3 (g), of the Covenant. It is also concerned about allegations that judges refuse to take into account any evidence provided by the accused with regard to his/her treatment by law enforcement officials.

The State party must ensure that all allegations of ill-treatment by public officials which are brought before the courts by detainees are investigated by the presiding judge and that the persons responsible are prosecuted. The State party must ensure that no one is compelled to testify against himself or herself or to confess guilt.

9. The Committee continues to be concerned about conditions in detention centres and penal institutions in Uzbekistan. The Committee is also concerned that insufficient information has been provided in this regard, except the State party's comments on conditions in the Jasluk prison. The Committee is particularly concerned about numerous allegations of deaths in prisons and the return of marked and bruised corpses to the families of detainees.

The State party should ensure that measures are taken to improve conditions in detention centres and penal institutions so that they are compatible with articles 7 and 10 of the Covenant. The State party should ensure that all persons deprived of their liberty are treated with humanity and respect for their dignity, in accordance with the United Nations Standard Minimum Rules for the Treatment of Prisoners.

10. The Committee is particularly concerned at information about the extremely poor living conditions of detainees on death row, including the small size of cells and the lack of proper food and exercise.

The State party should take immediate action to improve the situation of death row inmates in order to bring their conditions into line with the requirements of article 10, paragraph 1, of the Covenant.

11. The Committee is concerned that from the time an accused person is arrested, and throughout the judicial procedure, until the final judgement, the accused remains in the hands of and under the authority of the police or the Ministry of the Interior.

The State party should ensure that promptly after apprehension the accused is removed from the custody of the authorities responsible for law enforcement and brought under the jurisdiction of the authorities responsible for the administration of justice, thus minimizing the risks of a violation of articles 7, 9, paragraphs 1 and 2, and 10, paragraph 1, of the Covenant.

12. The Committee is concerned about the length of detention (72 hours) before detainees are informed of the charges being brought against them. This period of detention before detainees are informed of the charges being brought against them is too long and not in compliance with article 9, paragraph 2, of the Covenant. The Committee also deplores the unwillingness of the delegation to answer questions relating to court review of arrest (art. 9, para. 3).

The State party should take urgent measures to bring the Law of Criminal Procedure into compliance with the Covenant, so that the accused are promptly informed of any charges against them and promptly brought before a judge.

13. The Committee is concerned that there is no prohibition on the extradition or expulsion of individuals, including those seeking asylum in Uzbekistan, to countries where they may be exposed to risk of the death penalty, torture or to cruel, inhuman or degrading treatment or punishment.

The State party should ensure that individuals who claim that they will be subjected to torture, inhuman or degrading treatment, or the death penalty in the receiving state, have the opportunity to seek protection in Uzbekistan or at least assured of non-refoulement (arts. 6 and 7 of the Covenant).

14. The Committee is gravely concerned about the lack of independence of judges contrary to the requirements of article 14, paragraph 1, of the Covenant. The appointment of judges for a term of five years only, in particular if combined with the possibility, provided by law, of taking disciplinary measures against judges because of "incompetent rulings", exposes them to broad political pressure and endangers their independence and impartiality.

The State party should amend the relevant domestic legal provisions, as well as the Constitution, in order to ensure full independence of the judiciary.

15. The Committee notes with concern that military courts have broad jurisdiction. It is not confined to criminal cases involving members of the armed forces but also covers civil and criminal cases when, in the opinion of the executive, the exceptional circumstances of a particular case do not allow the operation of the courts of general jurisdiction. The Committee notes that the State party has not provided information on the definition of "exceptional circumstances" and is concerned that these courts have jurisdiction to deal with civil and criminal cases involving non-military persons, in contravention of articles 14 and 26 of the Covenant.

The State party should adopt the necessary legislative measures to restrict the jurisdiction of the military courts to trial of members of the military accused of military offences.

16. The Committee is deeply concerned at the information that more than 1,300 Tajiks, citizens of Uzbekistan, were resettled from their villages in the mountains to the steppes of the Sherabad region, about 250 miles away. The State party explained that the action was taken in order to improve the living conditions of the people concerned. It did not however, refute that the resettlement was enforced by military forces, that the Tajiks had to leave their homes without their belongings and that their villages were subsequently destroyed.

The State party should immediately stop any further action to expel people from their homes in violation of articles 12 and 17 and possibly, in certain situations, article 27 of the Covenant. The State party should take steps to compensate the individuals concerned for the loss of their property and their suffering, resulting from their forcible displacement and its aftermath, and to report on their present living conditions.

17. The Committee is concerned about the broad notion of "rights and interests of the Republic of Uzbekistan" as a general limitation on the enjoyment of human rights in article 16 which, taken together with article 20 of the State party's Constitution, gives rise to apprehension that human rights could be restricted at the discretion of the State.

The State party should take measures effectively to ensure that these articles of the Constitution are not used for the purposes of restricting human rights, contrary to article 2 of the Covenant.

18. The Committee is particularly concerned about the definition of "State secrets and other secrets" as defined in the Law on the Protection of State Secrets. It observes that the definition includes issues relating, inter alia, to science, banking and the commercial sector and is concerned that these restrictions on the freedom to receive and impart information are too wide to be consistent with article 19 of the Covenant.

The State party should amend the Law on the Protection of State Secrets to define and considerably reduce the types of issues that are defined as "State secrets and other secrets", thereby, bringing this law into compliance with article 19 of the Covenant.

19. The Committee expresses grave concern about the prevalence of violence against women, including domestic violence.

The State party should take effective measures to combat violence against women, including marital rape, and ensure that violence against women constitutes an offence punishable under criminal law. The State party should also organize awareness campaigns to address all forms of violence against women, including domestic violence, in order to comply fully with articles 3, 6, 7 and 26 of the Covenant.

20. The Committee is concerned that the traditional attitudes to women, whereby a woman's role continues to be seen by the State primarily as that of wife and mother, exclusively responsible for children and the family, make the establishment of equality for women very difficult. The Committee is also concerned about the limited contribution by women to civil society (articles 3 and 26 of the Covenant).

The State party should take measures to overcome traditional attitudes regarding the role of women in society. It should take steps to increase the number of women in decision-making bodies at all levels and in all areas. It should also organize special training programmes for women and regular awareness campaigns in this regard.

21. The Committee expresses its concern about cases of children being detained, arrested and held in custody without being able to exercise their right to a lawyer, and subjected to ill-treatment and unlawful investigative methods, in contravention of articles 7, 10 and 24 of the Covenant. The Committee is also concerned about the lack of information on this subject and on the policy the State party intends to pursue to address the problem.

The State party should include more information, in its next report, on the situation of children held in custody and progress being made in this area. The State party should enact a new criminal procedure law to deal specifically with juveniles.

22. While the Committee recognizes the willingness of the State party to cooperate with some international non-governmental organizations active in human rights issues, it notes that the State party has not taken up an effective dialogue with national non-governmental human rights organizations. The legal requirement for registration, subject to the fulfilment of certain conditions, provided for in article 26 of the Constitution and the Public Associations in the Republic of Uzbekistan Act of 1991 operates as a restriction on the activities of non-governmental organizations.

The State party should take the necessary steps to enable the national non-governmental human rights organizations to function effectively. The Committee recommends that the State party engage in intensive dialogue with these organizations on the situation in the country in order to improve the setting in which respect for human rights can be ensured (article 2 of the Covenant).

23. The Committee is deeply concerned about excessively restrictive provisions of Uzbek law with respect to the registration of political parties as public associations, by the Ministry of Justice (article 6 of the Constitution, Political Parties Act of 1991). This requirement could easily be used to silence political movements opposed to the Government, in violation of articles 19, 22 and 25 of the Covenant.

The Committee strongly recommends a revision of the relevant part of the State party's legislation to ensure that registration is not used to limit the rights of association guaranteed by the Covenant.

24. The Committee is very concerned about provisions of the Freedom of Conscience and Religion Organizations Act that require religious organizations and associations to be registered to be entitled to manifest their religion and beliefs. The Committee is also concerned about article 240 of the Penal Code, which penalizes the failure of leaders of religious organizations to register their statutes.

The Committee strongly recommends that the State party abolish the said provisions, which are not in conformity with the provisions of article 18, paragraphs 1 and 3, of the Covenant. Criminal procedures initiated on the basis of these provisions should be discontinued and convicted persons pardoned and compensated.

25. While noting that the State party has established a variety of institutions for monitoring human rights, such as the Parliamentary Commissioner for Human Rights (Ombudsman), the Commission for the Observance of Citizen's Constitutional Rights and Freedoms, the Institute for Monitoring Current Legislation and the National Centre for Human Rights, the Committee is concerned that none of these institutions is entirely independent of the executive branch of government and that their investigative powers do not seem to allow them to take adequate steps to resolve complaints brought before them.

The Committee recommends that the powers of the Ombudsman be broadened and his/her independence secured.

26. The Committee is concerned about the lack of training of public officials in international human rights standards.

The State party should organize training programmes for all public officials, particularly law enforcement officials and the judiciary, on human rights law and the Covenant in particular.

27. While noting the establishment of a 24-hour confidential telephone line through which any citizen can report improper actions by officials, the Committee continues to be concerned about the intimidation and harassment of individuals, particularly those, including human rights defenders, who complain about ill-treatment and torture by public officials (articles 7 and 10 of the Covenant).

The State party must protect all individuals from harassment and ensure that persons whose rights and freedoms have allegedly been violated have an effective remedy in accordance with article 2, paragraph 3, of the Covenant.

28. While welcoming the fact that the Covenant takes priority over national legislation and its provisions can be directly invoked before the courts, the Committee is concerned that no relevant case has as yet been brought before the courts.

The State party should make serious efforts to disseminate knowledge of the provisions of the Covenant among judges to enable them to apply the Covenant in relevant cases and among lawyers and the public to enable them to invoke its provisions before the courts (article 2 of the Covenant).

29. The State party should widely publicize the text of its initial report, the written answers it has provided in responding to the list of issues drawn up by the Committee and, in particular, these concluding observations.

30. The State party is asked, pursuant to rule 70, paragraph 5, of the Committee's rules of procedure, to forward information within 12 months on the implementation of the Committee's recommendations regarding the death penalty (para. 7), torture, inhuman treatment and abuse of power by officials (para. 8), the treatment of detainees and the extortion of evidence (para. 9), conditions in detention centres and penal institutions (para. 10), the length of detention of detainees prior to charge and court review of arrest (para. 13), the independence of judges (para. 15) and the relocation of communities (para. 17). The Committee requests that information concerning the remainder of its recommendations be included in the second periodic report to be submitted by 1 April 2004.